

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MUHAMMAD KHAN,  
Plaintiff,

v.

M. PAYTON,  
Defendant.

Case No. 20-03086 BLF (PR)

**ORDER GRANTING MOTION  
FOR EXTENSION OF TIME TO  
FILE SECOND AMENDED  
COMPLAINT; INSTRUCTIONS TO  
CLERK**

(Docket No. 24)

Plaintiff, a state prisoner, filed a *pro se* civil rights action pursuant to 42 U.S.C. § 1983 against an officer at San Quentin State Prison. Dkt. No. 1. On June 14, 2021, the Court screened Plaintiff's first amended complaint and granted leave to amend an equal protection claim. Dkt. No. 22. In the alternative, Plaintiff was advised that he may file notice to proceed solely on the cognizable claims identified in the order. *Id.* at 8.

In response to Plaintiff's status inquiry, the Clerk sent him a copy of the docket on September 24, 2021. Dkt. No. 23. On October 7, 2021, Plaintiff filed a "Notice of Non-receipt of Documents" based on what was shown on the docket. Dkt. No. 24. He states that he never received Docket Nos. 19, 20, 21, and 22, the last of which was the Court's order screening the first amended complaint. *Id.* at 1. He believes the documents were sent to Soledad, and not forwarded to his new address at Santa Clara County Jail. *Id.* He

1 requests copies of these documents be resent to him and that a new date be given for him  
2 to respond. *Id.* at 2. Good cause appearing, the request is GRANTED.

3 Plaintiff is granted an extension of time to file a second amended complaint in  
4 accordance with court's "Order Screening First Amended Complaint; Of Partial Dismissal  
5 and Dismissal with Leave to Amend." Dkt. No. 22. Within **forty-two (42) days from the**  
6 **date this order is filed**, Plaintiff shall file a second amended complaint using the court's  
7 form complaint to correct the deficiencies discussed therein with respect to the equal  
8 protection claim against Defendant Payton. The second amended complaint must include  
9 the caption and civil case number used in this order, *i.e.*, Case No. C 20-03086 BLF (PR),  
10 and the words "SECOND AMENDED COMPLAINT" on the first page. Plaintiff must  
11 answer all the questions on the form in order for the action to proceed. Plaintiff is  
12 reminded that the second amended complaint supersedes the original and the first amended  
13 complaints, and Plaintiff may not make references to either the original or first amended  
14 complaint. Claims not included in the second amended complaint are no longer claims and  
15 defendants not named in an amended complaint are no longer defendants. *See Ferdik v.*  
16 *Bonzelet*, 963 F.2d 1258, 1262 (9th Cir.1992).

17 **In the alternative, Plaintiff may file notice that he wishes to proceed solely on**  
18 **the cognizable claims discussed in the court order**, *i.e.*, First Amendment claim for the  
19 denial of religious freedom, Eighth Amendment claim for the denial of food, violation of  
20 due process, and state law claims for intentional infliction of emotional distress and  
21 negligence by SQSP, and strike the equal protection claim from the amended complaint.  
22 Dkt. No. 22 at 4-5.

23 Failure to respond in accordance with this order by filing a second amended  
24 complaint in the time provided will result in the dismissal of the equal protection claim for  
25 failure to state a claim. This action will proceed on the cognizable claims discussed above.

26 **The Clerk shall enclose copies of the documents filed under Docket Nos. 19, 20,**  
27 **21, and 22, along with a copy of this order to Plaintiff.**


United States District Court  
Northern District of California

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This order terminates Docket No. 24.

**IT IS SO ORDERED.**

**Dated: \_\_October 8, 2021\_\_**

  
BETH LABSON FREEMAN  
United States District Judge

Order Granting EOT to file SAC; Inst. To Clerk  
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